IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 25107 of 2004

Between:

N. Saraswathi Devi, W/o. Late Narasimhulu,
Vanikamdinne Village, Sirivel Mandal, Kurnool District.

..... PETITIONER

AND

1 Revenue Divisional Officer, Nandyal, Kurnool District.
2 Joint Collector, Kurnool District, Kurnool.
3 Mandal Revenue Officer, Sirivel, Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a writ, order or direction preferably in the nature of Writ of Mandamus declaring the action of the 2nd respondent in not passing any orders against the proceeding Rc.E.No.986 of 2004 by the 1st respondent dt. 5.10.2004 including the stay application as arbitrary, illegal and unsustainable and pas such other orders as may be just and proper.

Counsel for the Petitioner: MR.K.VENKATARAO

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court at the admission stage made the following :

ORDER:

The husband of the petitioner was functioning as Fair price Shop Dealer for the past 20 years. He died on 13.05.2001. The 2nd respondent appointed the petitioner as Dealer through proceedings, dated 06.02.2002. He suspended her authorisation vide order, dated 05.10.2004 on the allegation that the petitioner is selling the essential commodities at higher rates and there are certain discrepancies as to maintenance of stock by her. The petitioner preferred an appeal against the order of suspension to the 1st respondent and filed an application for stay along with it. Her grievance is that the 1st respondent has not passed any orders on the application for stay so far. She seeks orders from this Court to enable her to function as Fair Price Shop Dealer, till the appeal filed by her is disposed of.

Heard learned counsel for the petitioner and learned Government Pleader for Civil Supplies.

Petitioner states that she presented an appeal before the 1st respondent on 23.10.2004. It is more than two months that the petitioner filed the appeal before the 1st respondent and if no interim orders are passed within that time, the very purpose of filing of the appeal or for that matter the application for stay stands defeated.

It is true that the suspension ordered against the petitioner is pending enquiry. But, unless the application for stay is considered and disposed of within a reasonable time, the suspension tends to become a penalty by itself.

The petitioner was not issued any notice before her authorization was suspended nor her version was ascertained, before the Mandal Revenue Officer has recorded a finding that the petitioner diverted certain stocks to black-market. The observation is on the basis of certain presumptions and imaginations. It is not as if the stocks referred to in the order were found with any individuals in contravention of the provisions. The respondents could have clarified their doubts by requiring the petitioner to explain.

For the foregoing reasons, the writ petition is disposed of, directing that the order of suspension passed against the petitioner shall remain stayed, pending disposal of the appeal by the 1st respondent. There shall be no order as to costs.

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31.12.2004

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To

1 Revenue Divisional Officer, Nandyal, Kurnool District.
2 Joint Collector, Kurnool District, Kurnool.
3 Mandal Revenue Officer, Sirivel, Kurnool District.

4 2CCs to the G.P for Civil Supplies, High Court Buildings,

Hyderabad(O.U.T).

5 2CD copies